

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TAURUS BROWN

TDCJ-CID #877566

v.

CHRISTOPHER CARR, ET AL.

§  
§  
§  
§  
§

C.A. NO. C-08-170

**ORDER GRANTING LEAVE FOR DEPOSITION BY WRITTEN QUESTIONS**


Plaintiff is an inmate in the Texas Department of Criminal Justice, Correctional Institutions Division, and is currently incarcerated at the Clements Unit in Amarillo, Texas. Proceeding pro se, he filed a civil rights action pursuant to 42 U.S.C. § 1983. (D.E. 1). Pending is plaintiff's motion for leave to depose three witnesses by written questions. (D.E. 73). Specifically, he seeks leave to depose J. Clark, an officer at the McConnell Unit, Officer V. Aguilar, an officer at the McConnell Unit, and Darryl Love, an inmate at the McConnell Unit.

As an initial matter, the Federal Rules of Civil Procedure require that any party seeking to depose by written questions someone "confined in prison" must obtain leave of the court. Fed. R. Civ. P. 31(a)(2)(B); accord Whitehurst v. United States, 231 F.R.D. 500, 501 (S.D. Tex. 2005). Plaintiff is granted leave to take the deposition of inmate Darryl Love. "Unless the parties stipulate otherwise," deposition by written question must be conducted before an officer. See Fed. R. Civ. P. 28(a)(1); Fed. R. Civ. P. 31(b). The party serving the deposition must deliver it to the officer. Fed. R. Civ. P. 31(b). Furthermore, the party noticing the deposition has an obligation to notify when the deposition is completed. Fed. R. Civ. P. 31(c). If the parties cannot stipulate, then it is ordered that the law librarian of the unit where Mr. Love is incarcerated and Officers Clark and Aguilar work serve as the officer for the three depositions by written questions.

Plaintiff must serve a copy of the deposition by written questions on defendant's attorney. Defense counsel will ensure that deponents receive the deposition and that the depositions are completed within thirty days of receipt.

Accordingly, plaintiff's motion for leave to depose a witness by written questions, (D.E. 73), is GRANTED consistent with this Order.

ORDERED this 7th day of January 2009.



BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE